GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Agricultural Marketing Committee – Misuse of AMC subsidy by M/s Sun Re-Rolling Mills and Cold Storage Private Ltd. Autonagar, Gujuwaka Visakhapatnam Dist. – Demanding to repay the subsidy amount – Orders of Hon'ble High Court of A.P. in W.P.No.23454/2011, dt:20.11.2015 - Reduction of Interest from 18% to 12% - Orders - Issued.

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AGRICULTURE AND COOPERATION (AM.II) DEPARTMENT

G.O.RT.No. 107 Dated: 01-03-2017

Read the following:-

1. G.O.Ms.No.211, Agri. & Coop.(MKTG.II) Department, dt:02.07.1999.
2. From C&DoAM, A.P., Hyd., Lr.No.Vig/20/2007, dt:26.07.2011 & dt.25.10.2011.
3. Govt. Memo.No.14115/AM.II(1)/2010,dt:12.10.2011.
4. Judgment dt:20.11.2015 in W.P.No.23454/2011 filed by M/s Sun Re-Rolling Mills and Cold Storage Private Ltd. Autonagar, Gujuwaka Visakhapatnam Dist.
5. From District Collector, Visakhapatnam, Rc.No.123/B/2007, dt:18.12.2016.
6. From C&DoAM, A.P., Guntur, Lr.No.DS(2)/15360/2016, dt:20.02.2017.

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ORDER:

In the reference 1st read above, Government have issued orders for promoting Andhra Pradesh State Agricultural Marketing Committees Capital Investment Scheme for promotion of Cold Storage Unit in the State to help in achieving substantial Agricultural development to meet the demand of increasing population. As per the said scheme cold storages units set up in Andhra Pradesh would be eligible for capital investment subsidy of 25% of eligible fixed capital or Rs.50.00 Lakhs, whichever less is. The sanction of Capital investment subsidy and disbursement under this scheme would be subject to the conditions laid down in the above G.O.

2. M/s.Sun Re-Rolling Mills and Cold Storage Ltd., has availed APMC subsidy amount of Rs.34,93,000/- in the year 2001 from the Commissioner & Director of Agricultural Marketing. But the said company failed to run the unit for a period of 5 years and sold the Cold Storage units on 18.03.2004 to the Visakha Cooperative Dairy violating the conditions of G.O.Ms.No.211 Dt.02.07.1999 at Para 12(b) and operational guidelines at Para 3(b) and 4 after running the unit for a period of 3 years 2 months, without obtaining the prior approval of the Sanctioning Authority.

3. The Commissioner & Director of Agricultural Marketing directed the concerned officials to initiate the recovery procedure. Accordingly, the then Selection Grade Secretary issued notice calling upon to pay an amount of Rs.70,03,465/-. While challenging the said notice, the M/s.Sun Re-Rolling Mills and Cold Storage Ltd., approached the Hon'ble High Court by filing W.P.No.21622 of 2007. The Hon'ble High Court vide orders dt.11.10.2007 directed that till appropriate orders are passed, no further action shall be taken by the respondents, Accordingly, the petitioner submitted his reply on 12.04.2008. As the reply of the petitioner was not satisfactory, the Selection Grade Secretary, Agricultural Market Committee, Visakhapatnam has issued notice dated.25.06.2.008 and requested the petitioner to pay the subsidy

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amount with interest. Meanwhile, the Commissioner& Director of Agricultural Marketing directed the Assistant Director of Marketing, Visakhapatnam to file Criminal case against the M/s. Sun Re-Rolling Mills and Cold Storage Ltd., vide letter dated:14.12.2012. The Government have directed to issue necessary proceedings for recovery of amount from the petitioner. Accordingly, the District Collector, Visakhapatnam vide proceedings dt:17.02.2011 authorized the Tahsildar (MRO), Gajuwaka to recover an amount of Rs.34,93,000/- with interest.

4. Aggrieved by the said orders, the M/s. Sun Re-Rolling Mills and Cold Storage Ltd., filed Writ Petition No.6155/2011 and the Hon'ble High Court, in its orders dt:18.03.2011 while disposing the Writ Petition has passed the following directions:-

> ..... this Writ Petition is disposed off with a direction to the third respondent to consider the explanation submitted by the petitioner to the show cause notice dt.11.09.2007 and pass appropriate orders in accordance with the law, within a period of three months from the date of receipt of a copy of this order. However it is made clear that, before passing of the order, opportunity of being heard shall be provide to the petitioner. The Petitioner shall appear before the third respondent on 19.05.2011. Till the orders are passed, no recovery shall be made from the petitioner."

5. Pursuant to the orders of the Hon'ble High Court, notice dt.09.05.2011 was issued to Sri Y.Sanyasi Naidu, Managing Director, M/s. Sun Re-Rolling Mills and Cold Storage Ltd., requesting to appear before the third respondent on or before 19.05.2011. Opportunities were given to him to appear before 3rd respondent i.e Assistant Director of Marketing, Visakhapatnam. On 25.06.2011, the reply to the notice of the Selection Grade Secretary, Agricultural Market Committee, Visakhapatnam submitted by the petitioner, was examined as per the Government Orders and Rules in the presence of the Managing Director, M/s Sun Re-Rolling Mills and Cold Storage Ltd., and after hearing him, a detailed order dt.13.07.2011 was issued holding that the petitioner is liable to pay an amount of Rs.96,75,610/-(including interest).

6. Aggrieved by the said order the petitioner filed Writ Petition No.23454 of 2011 and the Hon'ble High Court, disposed of the Writ petition on 20.11.2015, with the following directions to the 1st respondent.

a) The 1st respondent is directed to determine the capital investment subsidy entitlement of the petitioner proportionately for a period of 38 months and the balance amount corresponding to 22 months is recoverable from the overall subsidy amount that was released in favour of the petitioner.

b) The power subsidy amount which the petitioner is otherwise eligible, is payable to the petitioner. In as much as it is only arithmetic working out, to avoid future litigation and to show the earnestness on the part of the Government to attract future investments from the entrepreneurs, the respondent authorities shall fairly honour their commitments which they proclaim through various G.Os., calling young entrepreneurs to come and establish units in the State. The fairness on the part of the Government in settling the issues would go a long way in bringing the investment into the State and encourage the young entrepreneurs to come forward and set up commercial units.

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c) In view of the fact that newly established State is making efforts to bring in investors and investments into the State, the entire exercise shall be completed by the 1st respondent within a period of three months from the date of receipt of a copy of this order.

7. The M/s. Sun Re-Rolling Mills and Cold Storage Ltd., filed contempt case No.2121/2016 of 2016 in WP No. 23454 of 2011, against the District Collector, Visakhapatnam for non implementing the orders of the Hon'ble High Court.

8. In the reference 5th read above, the District Collector, Visakhapatnam has requested the Government to take necessary action immediately to reduce the interest from 18 % to 12% to avoid the contempt case. In the meanwhile, the Agricultural Market Committee, Visakhapatnam has filed leave petition, delay condonation petition and suspension petition on the W.P.No.23454 of 2011, dated 20.11.2015.

9. In the reference 6th read above, the Commissioner & Director of Agricultural Marketing, A.P., Guntur has requested to take a decision on the request of the District Collector, Visakhapatnam for reduction of interest from 18% to 12% and issue early orders to avoid contempt case.

10. Accordingly, Government after careful examination of the entire matter, hereby reduce the rate of interest from 18% to 12% on the corresponding to 22 months recoverable from M/s. Re-Rolling Mills and Cold Storage Private Limited, Visakhapatnam, subject to outcome of leave petition, delay condone petition and suspension petition on the W.P.No.23454 of 2011, dated 20.11.2015 filed by Agricultural Market Committee, Visakhapatnam.

11. The Commissioner & Director of Agricultural Marketing, A.P., Guntur shall take immediate necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNER OF ANDHRA PRADESH)

B.RAJSEKHAR
SECRETARY TO GOVERNMENT (FAC)

To
The Commissioner & Director of Agricultural Marketing, A.P., Guntur.
The District Collector& Magistrate, Visakhapatnam.
SF/SC.

::FORWARDED BY OREDER::

SECTION OFFICER